

**CIVIL COURTS
(FAMILY SECTION)**

MADAM JUSTICE

JACQUELINE PADOVANI GRIMA LL.D., LL.M. (IMLI)

Hearing of the 6th of October 2021

Application no. : 93/2020 JPG

Case no. : 21

HDN

Vs

GDN

The Court:

Having seen the sworn application filed by HDN, dated 28th February 2020, at page 1 et seqq., wherein it stated:

1. *That Plaintiff married Defendant on the thirteenth (13th) of September of the year two thousand and one (2001) and subsequently as from the seventh (7th) of June of the year two thousand and seven (2007), they established their permanent residence in Malta;*
2. *That from this marriage no children were born;*
3. *That Plaintiff and Defendant separated legally from one another and this by virtue of a contract of consensual separation on the acts of Notary Dr. Sharon Zammit Fiorentino dated the seventeenth of February of the year two thousand and sixteen (2016) (as can be evidenced from the annexed Document marked as 'Doc A');*
4. *That thus the parties have been separated for one another for more than four (4) years;*

5. *That in terms of the same separation contract, the parties declared in paragraph four (4) that they reciprocally renounced to the right to claim and/or receive maintenance from one another and hence there are no issue of maintenance between the parties;*
6. *That there exists no prospect of reconciliation between the parties, since the parties both have a private life that is separate from the other;*
7. *That therefore all the elements for the granting of divorce in terms of article 66B of Chapter 16 of the Laws of Malta subsist;*

Hence, in view of the above the Applicant respectfully requests this Honourable Court to:

- i. *Pronounce the dissolution of the marriage between the parties HDN and DGN, celebrated on the thirteenth (13th) of September of the year two thousand and one (2001), by divorce, and this in terms of Article 66A et seq of Chapter 16 of the Laws of Malta;*
- ii. *Authorise Plaintiff HDN, to revert to her maiden surname that is Wood;*
- iii. *Order the Court Registrar to advise the Director Public Registry with the dissolution of the marriage between the parties in that this may be registered in the Public Registry and this within such period of time that this Court shall determine;*

Having seen that the application and documents, the decree and notice of hearing have been duly notified according to law;

Having seen the Defendant appeared during the sitting on the 24th of November 2020, unassisted and after the Court informed him of his legal rights, he declared the he did not require any legal assistance and that he was not objecting to the divorce; (vide page 13);

Having seen the note in the record of proceedings dated 24th November 2020 (vide page 13)

whereby Plaintiff declared that she did not object to paying all costs of these proceedings.

Having heard all the evidence on oath;

Having seen the exhibited documents and all the case acts;

Having seen the Articles 66A, 66B u 66C of Chapter 16 of laws of Malta;

Considers:

HDN testified (vide page 16) that she married DGN on the 13th of September 2001 and that from this marriage no children were born. This marriage was not a successful one and the parties signed a consensual separation on the 17th of February 2016. She also testified that from the date of the separation there was no reconciliation between the parties and that there is no reasonable prospect of reconciliation. Moreover, she testified that there are no maintenance arrears.

DGN gave evidence on oath (vide page 18) and corroborated and confirmed the testimony given by HDN.

Dr Clive Pisani gave evidence on oath (vide page 103) that by profession, he is a lawyer at the Public Registry Malta. He testified that foreign marriage cannot be registered in Malta and no annotations can be made. The Public Registry Department, takes note of the final judgment and that this constitutes a proof of divorce should one of the parties desire to marry again in Malta.

Deliberates:

66A. (1) Each of the spouses shall have the right to demand divorce or dissolution of the marriage as provided in this Sub-Title. It shall not be required that, prior to the demand of divorce, the spouses shall be separated from each other by means of a contract or of a judgement. [...]

66B. Without prejudice to the following provisions of this article, divorce shall not be granted except upon a demand made jointly by the two spouses or by one of them against the other spouse, and unless the Court is satisfied that:

(a) on the date of commencement of the divorce proceedings, the spouses shall have lived apart for a period of, or periods that amount to, at least four years out of the immediately preceding five years, or at least four years have lapsed from the date of legal separation; and

(b) there is no reasonable prospect of reconciliation between the spouses; and

(c) the spouses and all of their children are receiving adequate maintenance, where this is due, according to their particular circumstances, as provided in article 57:

Provided that the spouses may, at any time, renounce their right to maintenance:[...]

Considers:

The Court has seen that the parties were married in Bilton House Hanogate, District of North Yorkshire, in the County of North Yorkshire on the 13th of September 2001 (vide page 21) and no children were born from this marriage; The parties established their permanent residence in Malta on the 7th June 2007.

The record shows that the marriage broke down and the parties obtained a personal separation by means of a public deed in the acts of Notary Doctor Sharon Zammit Fiorentino dated the seventeenth of February of the year two thousand and sixteen (vide Dok A, page 3). Therefore it is established that the parties have been separated for a longer period of time than the four years required by law.

The record shows that that there are no maintenance arrears.

Furthermore, the Court finds that there is no reasonable prospect of a reconciliation between the parties.

For these reasons, the Court pronounces the dissolution of the marriage between the parties by divorce and orders the Court Registrar to advise the Director of the Public Registry of the dissolution of the marriage between the parties so that this may be noted in the Public Registry.

Moreover, the Court upholds the demand of the Plaintiff to revert to her maiden surname that is Wood and orders the Director Public Registry to take note of the same.

The expenses of these proceedings are *senza tassa*.

Read.

Mdm. Justice Jacqueline Padovani Grima LL.D. LL.M. (IMLI)

**Lorraine Dalli
Deputy Registrar**